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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

08 APR 18 AM 11:43

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Jose Luis PENA-Alvarez

Defendant.

Magistrate Case No. 728COMPLAINT FOR VIOLATION OF

Title 8, U.S.C., Section
1324(a)(2)(B)(iii)-
Bringing in Illegal Aliens
Without Presentation

08 MJ 1196 DEPUTY

The undersigned complainant being duly sworn states:

On or about **April 16, 2008**, within the Southern District of California, defendant **Jose Luis PENA-Alvarez**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely, **Gabriela MARTINEZ-Ramos, Marbelia ROSAS-Jimenez** and **Diana CHAVEZ-Lopez**, had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said aliens, and upon arrival did not bring and present said aliens immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT
Sara Esparagoza, United States Customs
and Border Protection Enforcement Officer

Sworn to before me and subscribed in my presence, this **18th** day of **April, 2008**.


UNITED STATES MAGISTRATE JUDGE

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PROBABLE CAUSE STATEMENT

The complainant states that **Gabriela MARTINEZ-Ramos, Marbelia ROSAS-Jimenez and Diana CHAVEZ-Lopez** are citizens of a country other than the United States; that said aliens have admitted they are deportable; that their testimony is material; that it is impracticable to secure their attendance at trial by subpoena; and that they are a material witness in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On April 16, 2008, at about 9:48 PM., **Jose Luis PENA-Alvarez (Defendant)** made application for admission into the United States at the San Ysidro, California Port of Entry as the driver of a gray 1992 Ford Aerostar. Accompanying Defendant were three visible passengers, one adult female and two minors. Defendant presented a DSP-150 (Border Crossing Card) bearing the name Obed Isaac Carrillo Lejarza. Defendant also presented three Border Crossing Cards bearing the names Martha Simplicia Fernandez-Rodriguez, Carolina Hernandez Ramirez and Juan Ramirez-Perez on behalf of the three visible passengers. Defendant gave a negative customs declaration, stating he was not bringing anything from Mexico. The CBP Officer received a computer generated referral indicating the Border Crossing Card that Defendant presented was either lost or stolen. Upon closer examination of the Border Crossing Cards, the CBP Officer suspected Defendant and the passengers were imposters to the documents presented. The CBP Officer then conducted a cursory inspection of the vehicle and discovered what appeared to be human beings in the rear cargo area of the van attempting to elude inspection by concealing themselves under a black fabric. The vehicle and its occupants were escorted to secondary for further inspection.

In secondary, Defendant and the three visible passengers were confirmed to be imposters to the Border Crossing Cards presented. An examination of the vehicle led to the discovery of nine persons concealed in the cargo area of the van. Defendant, the visible passengers, and the nine people concealed in the rear were determined to be citizens of Mexico without legal documentation to enter the United States. Three of the concealed aliens were retained as material witnesses and are now identified as **Gabriela Martinez-Ramos (MW1), Marbelia Rosas-Jimenez (MW2) and Diana Chavez-Lopez (MW3)**.

Defendant was advised of his Miranda Rights and elected to submit to questioning without benefit to counsel. Defendant admitted he is a citizen of Mexico without legal documents to enter the United States. Defendant admitted he was aware the three visible passengers in the vehicle were undocumented and admitted to presenting the Border Crossing Cards on their behalf. Defendant admitted he was aware there were additional undocumented aliens concealed in the rear cargo area. Defendant admitted he agreed to drive and deliver the vehicle, passengers and concealed aliens to an unknown location in California and was to be excluded from paying the full amount of \$3500.00 USD of his smuggling fee in return.

On separate videotaped interviews, Material Witnesses admitted they are citizens of Mexico without legal documentation to enter the United States. Material Witnesses stated they made smuggling arrangements and agreed to pay fees ranging from \$2,000 to \$4,000.00 USD to be smuggled into the United States. Material Witnesses admitted they were going to the United States to seek employment and residency.